

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
ILLINOIS COMMERCE COMMISSION,)
On Its Own Motion,)
) No. 06-0526
Consideration of the federal)
standard on time-based metering)
and communications in Section)
1252 of the Energy Policy Act)
of 2005.)

Chicago, Illinois
October 25, 2006

Met pursuant to notice at 11:00 a.m.

BEFORE:

DAVID GILBERT, Administrative Law Judge.

APPEARANCES :

MR. MATTHEW L. HARVEY
MR. MICHAEL R. BOROVIK
160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601
Appearing for Staff of the ICC;

SONNENSCHNEN, NATH & ROSENTHAL, by
MR. JOHN ROONEY
8000 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
Appearing for Commonwealth Edison Company;

MS. JENNIFER MOORE
200 First Street Southeast
Cedar Rapids, Iowa 52401
Appearing for Interstate Power and Light
Company and South Beloit Water, Gas and
Electric via telephone;

1 APPEARANCES: (CONT'D)

2 MS. KAREN M. HUIZENGA
3 106 East Second Street
4 Davenport, Iowa 52801
5 Appearing for MidAmerican Energy Company
6 via telephone;

7 MR. EDWARD FITZHENRY
8 1901 Shoto Avenue
9 Post Office Box 66149, mail code 1310
10 St. Louis, Missouri 63166-6149.
11 Appearing for the Ameren Companies via
12 telephone.

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27 SULLIVAN REPORTING COMPANY, by
28 Steven T. Stefanik, CSR

1		<u>I</u> <u>N</u> <u>D</u> <u>E</u> <u>X</u>			
2	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	Re- <u>direct</u>	Re- <u>cross</u> By <u>Examiner</u>
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6		None.			
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9		<u>E</u> <u>X</u> <u>H</u> <u>I</u> <u>B</u> <u>I</u> <u>T</u> <u>S</u>			
10	<u>Number</u>	<u>For Identification</u>		<u>In Evidence</u>	
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13		None so marked.			
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1 JUDGE GILBERT: Pursuant to the authority of the
2 Illinois Commerce Commission, I now call Docket
3 06-0526.

4 If I could have appearances, please.
5 Let's begin to my left here.

6 MR. ROONEY: Thank you, your Honor.

7 On behalf of Commonwealth Edison
8 Company, John Rooney of the firm Sonnenschein, Nath
9 and Rosenthal, LLP, 233 South Wacker Drive,
10 Suite 7800, Chicago, Illinois 60606.

11 MR. HARVEY: Matt Harvey -- Matthew L. Harvey
12 and Michael R. Borovik, B-o-r-o-v-i-k, appearing
13 for the Staff of the Illinois Commerce Commission,
14 160 North LaSalle, Suite C-800, Chicago, Illinois
15 60601.

16 JUDGE GILBERT: Okay. That's everyone in the
17 hearing room.

18 Telephone parties, please. Ms. Moore,
19 why don't you go first.

20 MS. MOORE: Appearing on behalf of the
21 Interstate Power and Light Company and South Beloit
22 Water, Gas and Electric, Jennifer Moore, 200 First

1 Street Southeast, Cedar Rapids, Iowa 52401.

2 MS. HUIZENGA: Karen M. Huizenga appearing
3 MidAmerican Energy Company, 106 East Second Street,
4 Davenport, Iowa 52801.

5 MR. FITZHENRY: For the Ameren Companies, my
6 name is Edward Fitzhenry. That's
7 F-i-t-z-h-e-n-r-y. 1901 Shoto (phonetic) Avenue,
8 Post Office Box 66149, mail code 1310, St. Louis,
9 Missouri 63166-6149.

10 JUDGE GILBERT: Any other telephone parties?

11 Okay. That's it then.

12 Let's go off the record for a moment.

13 (Discussion off the record.)

14 JUDGE GILBERT: All right. We had an extensive
15 off-the-record conversation about the status of the
16 case and what ought to be done next.

17 There are several matters that need to
18 be put on the record and I'm going to turn it over
19 to Mr. Borovik first because he will be
20 articulating Staff's position with respect to the
21 comments that have been filed thus far.

22 MR. BOROVIK: Thank you, your Honor.

1 Staff believes the ALJ needs to require
2 the Ameren companies, Commonwealth Edison Company,
3 and MidAmerican Energy Company to submit comments
4 that address the question of whether or not there's
5 a need to conduct an investigation into compliance
6 with Section 111(d)(14)(A), which states, in part,
7 Each state regulatory authority shall conduct an
8 investigation and issue a decision whether or not
9 it is appropriate for electric utilities to provide
10 and install time-based meters and communications
11 devices for each of their customers.

12 The question begs an answer from the
13 parties and the parties have an obligation to
14 address the question of conducting an
15 investigation.

16 Therefore, Staff requests that the ALJ
17 require the Ameren companies, Commonwealth Edison
18 Company and MidAmerican Energy Company to submit
19 further comments addressing the subject question.

20 JUDGE GILBERT: All right. Let me offer one
21 clarification.

22 The statutory portion that you read,

1 isn't that part of 16 USC Section 2625(i) rather
2 than part of -- of Section 111(d)(14)(a)?

3 MR. HARVEY: It absolutely is, your Honor; but
4 that said, it refers back to section 111(d)(14) in
5 the requirement that we conduct an investigation
6 pursuant to that.

7 I mean, the statute is not a model of
8 clarity, by any stretch of the imagination, but it
9 definitely says that in conducting -- or our
10 reading of it is certainly that in conducting this
11 investigation, we have to also, you know, deal with
12 the other question.

13 JUDGE GILBERT: Right. And I wasn't questioning
14 you on the substance of your interpretation of the
15 statute.

16 I just wanted to be clear for our record
17 that the portion that Mr. Borovik quoted, I
18 believe, is in a different section, which you
19 actually have in your comments right under that
20 section.

21 MR. HARVEY: That's correct, your Honor.

22 The citation to that section is 16

1 United States Code, Section 2625, Subsection i,
2 just for clarification.

3 JUDGE GILBERT: Okay. So turning then to the
4 more important question of the substance of Staff's
5 position, my understanding is that the utilities
6 that will be subject to this, which would be ComEd,
7 the Ameren companies and MidAmerican, may be
8 prepared to file some additional comments in the
9 case, and let me ask that to Mr. Rooney first.

10 MR. ROONEY: Yes, your Honor.

11 ComEd will respond to the question in
12 supplemental form, supplemental comments.

13 JUDGE GILBERT: Okay. Mr. Fitzhenry?

14 MR. FITZHENRY: Yes, the Ameren Companies will
15 do so as well.

16 JUDGE GILBERT: And Ms. Huizenga?

17 MS. HUIZENGA: As will MidAmerican.

18 JUDGE GILBERT: Okay. And per our discussion
19 off the record, that will occur by the 3rd of
20 November, close of business. Please serve
21 everyone, including me. And then Staff will have
22 until the 13th of November to file a reply.

1 And I've asked Staff to file even the
2 simplest of replies just so it's clear that they've
3 taken the position with respect to the adequacy of
4 the comments. And so that can be as little as a
5 one-sentence reply, if that what staff feels is
6 appropriate.

7 MR. HARVEY: Fair enough, your Honor. We'll do
8 that.

9 JUDGE GILBERT: All right. And then I've asked
10 the parties if they would prepare a consensus draft
11 order and submit that to me by the 9th of January.
12 And let me underline consensus. That would be an
13 order that has been circulated among the parties
14 and that every party is satisfied with and that's
15 the order that I will then take to the Commission
16 possibly with some of the wordsmithing that I can't
17 seem to resist, but in no event would I change the
18 substance of anything the parties have mutually
19 agreed to.

20 Is that understood by all parties?

21 MR. ROONEY: Yes, your Honor.

22 MR. FITZHENRY: Yes.

1 MS. HUIZENGA: Yes, your Honor.

2 MR. HARVEY: And by Staff as well, your Honor.

3 JUDGE GILBERT: Okay.

4 So I'm thinking we probably don't need a
5 status. If something comes up, if the parties
6 would just contact me and we'll set a new hearing.

7 I'll just look forward to getting a
8 draft order by the 9th of January. If you have it
9 before then, that's fine, too.

10 If I don't have something by the 9th,
11 obviously, we're going to have to come in and have
12 an emergency status and figure out what to do next
13 with the case and I certainly hope that doesn't
14 occur.

15 Okay. Thanks very much.

16 MR. ROONEY: Thank you, your Honor.

17 MR. HARVEY: Thank your, your Honor.

18 (Whereupon, said hearing was
19 continued sine die.)
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